

## Department of the Interior

## 1426.7003

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AUTHORITY: Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c); and 5 U.S.C. 301.

SOURCE: 75 FR 19829, Apr. 15, 2010, unless otherwise noted.

### Subpart 1426.70—Indian Preference

#### 1426.7000 Scope of subpart.

This subpart prescribes policies and procedures for implementation of Section 7(b) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638, 88 Stat. 2205, 25 U.S.C. 450e(b)).

#### 1426.7001 Definitions.

For purposes of this subpart the following definitions shall apply:

*Indian* means a person who is a member of an Indian Tribe. If the contractor has reason to doubt that a person seeking employment preference is an Indian, the contractor shall grant the preference but shall require the individual within thirty (30) days to provide evidence from the Tribe concerned that the person is a member of the Tribe.

*Indian organization* means that governing body of any Indian Tribe or entity established or recognized by such governing body in accordance with the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451).

*Indian-owned economic enterprise* means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit provided that such Indian ownership shall constitute not less than 51 percent of the enterprise.

*Indian reservation* includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incor-

porated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act, (85 Stat. 688; 43 U.S.C. 1601 *et seq.*).

*Indian Tribe* means an Indian Tribe, band, nation, or other recognized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

*On or near an Indian reservation* means on a reservation or the distance within that area surrounding an Indian reservation(s) that a person seeking employment could reasonably be expected to commute to and from in the course of a work day.

#### 1426.7002 Statutory requirements.

Section 7(b) of the Indian Self-Determination and Education Assistance Act requires that any contract or subcontract entered into pursuant to that Act, the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 452), as amended (the Johnson-O'Malley Act), or any other Act authorizing contracts with Indian organizations or for the benefit of Indians shall require that, to the greatest extent feasible:

(a) Preferences and opportunities for training and employment in connection with the administration of such contracts shall be given to Indians, and

(b) Preference in the award of subcontracts in connection with the administration of such contracts shall be given to Indian organizations and to Indian-owned economic enterprises as defined in Section 3 of the Indian Financing Act of 1974 (Sec. 3, Pub. L. 93-262; 88 Stat. 77; 25 U.S.C. 1452).

#### 1426.7003 Applicability and contract clause.

(a) The CO shall insert the clause at 1452.226-70, Indian Preference—Department of the Interior, in solicitations issued and contracts awarded by:

(1) The Bureau of Indian Affairs;

(2) A contracting activity other than the Bureau of Indian Affairs when the contract is entered into pursuant to an